

LINDBERGH PORTER, JR., Bar No. 100091
LITTLER MENDELSON
A Professional Corporation
650 California Street, 20th Floor
San Francisco, CA 94108.2693
Telephone: 415.433.1940
Facsimile: 415.399.8490
Email: lporter@littler.com
Email: rrahm@littler.com
Email: ahightower@littler.com

Attorneys for Defendant
WELLS FARGO BANK,
NATIONAL ASSOCIATION

ROBERT W. THOMPSON, Bar No. 106411
CHARLES RUSSELL, Bar No. 233913
CALLAHAN, MCCUNE & WILLIS, APLC
111 FASHION LANE
San Francisco, CA 94107
Telephone: 714-730-5700
Facsimile: 714-730-1642
Email: Robert_Thompson@cmwlaw.net
Email: Charles_Russell@cmwlaw.net
Co-Lead Counsel for Nationwide Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:

WELLS FARGO HOME MORTGAGE
OVERTIME PAY LITIGATION,

Plaintiff,

v.

THIS DOCUMENT RELATES TO ALL
CASES

Case No. MDL 06-1770

STIPULATED PROTECTIVE ORDER

1
2 1. PURPOSES AND LIMITATIONS

3 Disclosure and discovery activity in this action are likely to involve production of
4 confidential, proprietary, or private information for which special protection from public disclosure
5 and from use for any purpose other than prosecuting this litigation would be warranted.
6 Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated
7 Protective Order. The parties acknowledge that this Order does not confer blanket protections on all
8 disclosures or responses to discovery and that the protection it affords extends only to the limited
9 information or items that are entitled under the applicable legal principles to treatment as
10 confidential. The parties further acknowledge, as set forth in Section 10, below, that this Stipulated
11 Protective Order creates no entitlement to file confidential information under seal; Civil Local Rule
12 79-5 sets forth the procedures that must be followed and reflects the standards that will be applied
13 when a party seeks permission from the Court to file material under seal. This Stipulated Protective
14 Order does not relieve the parties of their obligation to comply with any other orders or rules, such
15 as General Order No. 53.

16 2. DEFINITIONS

17 2.1 Party: any party to this action, including all of its officers, directors, employees,
18 consultants, retained experts, and outside counsel (and their support staff).

19 2.2 Disclosure or Discovery Material: all items or information, regardless of the
20 medium or manner generated, stored, or maintained (including, among other things, testimony,
21 transcripts, or tangible things) that are produced or generated in disclosures or responses to
22 discovery in this matter.

23 2.3 "Confidential" Information or Items: information (regardless of how generated,
24 stored or maintained) or tangible things that qualify for protection under standards developed under
25 F.R.Civ.P. 26(c).

26 2.4 "Attorneys' Eyes Only" Information or Items: extremely sensitive "Confidential
27 Information or Items" whose disclosure to another Party or nonparty would create a substantial risk
28 of serious injury that could not be avoided by less restrictive means.

1 2.5 Receiving Party: a Party that receives Disclosure or Discovery Material from a
2 Producing Party.

3 2.6 Producing Party: a Party or non-party that produces Disclosure or Discovery
4 Material in this action.

5 2.7 Designating Party: a Party or non-party that designates information or items that it
6 produces in disclosures or in responses to discovery as “Confidential” or “Highly Confidential—
7 Attorneys’ Eyes Only.”

8 2.8 Protected Material: any Disclosure or Discovery Material that is designated as
9 “Confidential” or as “Highly Confidential—Attorneys’ Eyes Only.”

10 2.9 Outside Counsel: attorneys who are not employees of a Party but who are retained
11 to represent or advise a Party in this action.

12 2.10 House Counsel: attorneys who are employees of a Party.

13 2.11 Counsel (without qualifier): Outside Counsel and House Counsel (as well as their
14 support staffs).

15 2.12 Expert: a person with specialized knowledge or experience in a matter pertinent to
16 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
17 consultant in this action and who is not a past or a current employee of a Party or of a competitor of
18 a Party and who, at the time of retention, is not anticipated to become an employee of a Party or a
19 competitor of a Party. This definition includes a professional jury or trial consultant retained in
20 connection with this litigation.

21 2.13 Professional Vendors: persons or entities that provide litigation support services
22 (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing,
23 storing, retrieving data in any form or medium; etc.) and their employees and subcontractors.

24 3. SCOPE

25 The protections conferred by this Stipulation and Order cover not only Protected
26 Material (as defined above), but also any information copied or extracted therefrom, as well as all
27 copies, excerpts, summaries, or compilations thereof; plus testimony, conversations, or presentations
28 by parties or counsel to or in court or in other settings that might reveal Protected Material.

1 4. DURATION

2 Even after the termination of this litigation, the confidentiality obligations imposed by
3 this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court
4 order otherwise directs.

5 5. DESIGNATING PROTECTED MATERIAL

6 5.1 Designating Material for Protection. Both the Producing Party and Receiving Party
7 have a right to designate material as “Confidential” or “Attorneys’ Eyes Only.” If it comes to a
8 Party’s or a non-party’s attention that information or items that it designated for protection do not
9 qualify for protection at all, or do not qualify for the level of protection initially asserted, that Party
10 or non-party must promptly notify all other parties that it is withdrawing the mistaken designation.

11 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
12 (see, e.g., second paragraph of section 5.2(a), below), or as otherwise stipulated or ordered, material
13 that qualifies for protection under this Order must be clearly so designated before the material is
14 disclosed or produced, or in the case of the Receiving Party, within 30 days of receipt of the
15 material. However, either Party may designate any material produced before entry of this Order by
16 the Court if that Party notifies the other Parties of this designation within 30 days of the date this
17 Order is filed by the Court.

18 Designation in conformity with this Order requires:

19 (a) for information in documentary form (apart from information provided in
20 electronic format or on CD or DVD [see section (b) below], and not including transcripts of
21 depositions or other pretrial or trial proceedings [see section (c) below]), that the Producing Party
22 (or Receiving Party where applicable) affix the legend “CONFIDENTIAL” or “ATTORNEYS’
23 EYES ONLY” on each page that contains protected material. A Party or non-party that makes
24 original documents or materials available for inspection need not designate them for protection until
25 after the inspecting Party has indicated which material it would like copied and produced. During
26 the inspection and before the designation, all of the material made available for inspection shall be
27 deemed “ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified the documents it
28 wants copied and produced, the Producing Party must determine which documents, or portions

1 thereof, qualify for protection under this Order, then, before producing the specified documents, the
 2 Producing Party must affix the appropriate legend (“CONFIDENTIAL” or “ATTORNEYS’ EYES
 3 ONLY”) on each page that contains Protected Material.

4 (b) for writings provided in native format or produced on CD, DVD, or other
 5 storage device because of the volume of material, the Producing Party (or Receiving Party where
 6 applicable) affix the legend “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY” on the storage
 7 medium (e.g., CD) that contains protected material but not upon each item on that storage medium.

8 (c) for testimony given in deposition or in other pretrial or trial proceedings, that
 9 the Party or non-party offering or sponsoring the testimony identify on the record, before the close of
 10 the deposition, hearing, or other proceeding, all protected testimony, and further specify any portions
 11 of the testimony that qualify as “ATTORNEYS’ EYES ONLY.” When it is impractical to identify
 12 separately each portion of testimony that is entitled to protection, and when it appears that
 13 substantial portions of the testimony may qualify for protection, the Party or non-party that sponsors,
 14 offers, or gives the testimony may invoke on the record (before the deposition or proceeding is
 15 concluded) a right to have up to 30 calendar days after receipt of the relevant transcript to identify
 16 the specific portions of the testimony as to which protection is sought and to specify the level of
 17 protection being asserted (“CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY”). Only those
 18 portions of the testimony that are appropriately designated for protection within the 30 calendar days
 19 shall be covered by the provisions of this Stipulated Protective Order.

20 Transcript pages containing Protected Material must be separately bound by the court
 21 reporter, who must affix to each such page the legend “CONFIDENTIAL” or “ATTORNEYS’
 22 EYES ONLY,” as instructed by the Party or nonparty offering or sponsoring the witness or
 23 presenting the testimony.

24 (d) for information produced in some other form, and for any other tangible items,
 25 that the Producing Party affix in a prominent place on the exterior of the container or containers in
 26 which the information or item is stored the legend “CONFIDENTIAL” or “ATTORNEYS’ EYES
 27 ONLY.”
 28

(e) for information produced, regardless of form, that contains both Protected Material and non-protected material, that the Designating Party take reasonable steps to separately identify the Protected Material. This separate identification may be accomplished by summary where appropriate (e.g., a cover letter explaining that the Protected Material contained in the information produced consists of Social Security numbers).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items as “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY” does not, standing alone, waive the Designating Party’s right to secure protection under this Order for such material. If material is appropriately designated as “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY” after the material was initially produced, the Receiving Party (or the Producing Party as the case may be) on timely notification of the designation, must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Unless a prompt challenge to a Designating Party’s confidentiality designation is necessary to avoid foreseeable substantial unfairness, unnecessary economic burdens, or a later significant disruption or delay of the litigation, a Party does not waive its right to challenge a confidentiality designation by electing not to mount a challenge promptly after the original designation is disclosed.

6.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating Party’s confidentiality designation must do so in good faith and must begin the process by conferring directly (in voice to voice telephonic or in-person dialogue; other forms of communication are not sufficient) with counsel for the Designating Party. In conferring, the challenging Party must explain the basis for its belief that the confidentiality designation was not proper and must give the Designating Party an opportunity to review the designated material, to reconsider the circumstances, and, if no change in designation is offered, to explain the basis for the chosen designation. A challenging Party may proceed to the next stage of the challenge process only if it has engaged in this meet and confer process first.

6.3 Judicial Intervention. A Party that elects to press a challenge to a confidentiality designation after considering the justification offered by the Designating Party may file and serve a motion under Civil Local Rules 7-1, 7-2, 7-4, 7-5 (and in compliance with Civil Local Rule 79-5, if applicable) that identifies the challenged material and sets forth in detail the basis for the challenge. Each such motion must be accompanied by a competent declaration that affirms that the movant has complied with the meet and confer requirements imposed in the preceding paragraph and that sets forth with specificity the justification for the confidentiality designation that was given by the Designating Party in the meet and confer dialogue.

The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Until the court rules on the challenge, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a non-party in connection with this case only for prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the litigation has been terminated, a Receiving Party must comply with the provisions of section 11, below (FINAL DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated CONFIDENTIAL only to:

(a) the Receiving Party's Outside Counsel of record in this action, as well as employees of said Counsel to whom it is reasonably necessary to disclose the information for this litigation and who have signed the "Agreement to Be Bound by Protective Order" that is attached hereto as Exhibit A;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by Protective Order" (Exhibit A);

(c) experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by Protective Order" (Exhibit A);

(d) the Court and its personnel;

(e) court reporters, their staffs, and professional vendors to whom disclosure is reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by Protective Order" (Exhibit A);

(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the "Agreement to Be Bound by Protective Order" (Exhibit A). Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order.

(g) the author of the document or the original source of the information.

7.3 Disclosure of "ATTORNEYS' EYES ONLY" Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "ATTORNEYS' EYES ONLY" only to:

(a) the Receiving Party's Outside Counsel of record in this action, as well as employees of said Counsel to whom it is reasonably necessary to disclose the information for this litigation and who have signed the "Agreement to Be Bound by Protective Order" that is attached hereto as Exhibit A;

(b) House Counsel of a Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by Protective Order" (Exhibit A);

(c) Experts (as defined in this Order) (1) to whom disclosure is reasonably necessary for this litigation; and (2) who have signed the "Agreement to Be Bound by Protective Order" (Exhibit A);

(d) the Court and its personnel;

(e) court reporters, their staffs, and professional vendors to whom disclosure is reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by Protective Order" (Exhibit A); and

(f) the author of the document or the original source of the information.

7.4 Redaction. Information produced containing both Protected Material and non-protected material may be redacted by the Receiving Party in such a manner as to completely remove the Protected Material. Information so redacted is not subject to this Stipulated Protective Order, notwithstanding that it may contain a legend designating it as "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY."

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Receiving Party is served with a subpoena or an order issued in other litigation that would compel disclosure of any information or items designated in this action as "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY," the Receiving Party must so notify the Designating Party, in writing (by fax, if possible) immediately and in no event more than three court days after receiving the subpoena or order. Such notification must include a copy of the subpoena or court order.

The Receiving Party also must immediately inform in writing the Party who caused the subpoena or order to issue in the other litigation that some or all the material covered by the subpoena or order is the subject of this Protective Order. In addition, the Receiving Party must deliver a copy of this Stipulated Protective Order promptly to the Party in the other action that caused the subpoena or order to issue.

The purpose of imposing these duties is to alert the interested parties to the existence of this Protective Order and to afford the Designating Party in this case an opportunity to try to

1 protect its confidentiality interests in the court from which the subpoena or order issued. The
 2 Designating Party shall bear the burden and the expense of seeking protection in that court of its
 3 confidential material—and nothing in these provisions should be construed as authorizing or
 4 encouraging a Receiving Party in this action to disobey a lawful directive from another court.

5 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

6 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
 7 Protected Material to any person or in any circumstance not authorized under this Stipulated
 8 Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party
 9 of the unauthorized disclosures, (b) use its best efforts to retrieve all copies of the Protected Material,
 10 (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this
 11 Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to
 12 Be Bound” that is attached hereto as Exhibit A.

13 10. FILING PROTECTED MATERIAL

14 Without written permission from the Designating Party or a court order secured after
 15 appropriate notice to all interested persons, a Party may not file in the public record in this action
 16 any Protected Material. A Party that seeks to file under seal any Protected Material must comply
 17 with Civil Local Rule 79-5.

18 11. FINAL DISPOSITION

19 Unless otherwise ordered or agreed in writing by the Producing Party, within sixty
 20 days after the final termination of this action, each Receiving Party must destroy or return all
 21 Protected Material to the Producing Party. As used in this subdivision, “all Protected Material”
 22 includes all copies, abstracts, compilations, summaries or any other form of reproducing or capturing
 23 any of the Protected Material. Whether the Protected Material is returned or destroyed, upon request
 24 the Receiving Party must submit a written certification to the Producing Party (and, if not the same
 25 person or entity, to the Designating Party) that identifies (by category, where appropriate) all the
 26 Protected Material that was returned or destroyed and that affirms that the Receiving Party has not
 27 retained any copies, abstracts, compilations, summaries or other forms of reproducing or capturing
 28 any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an

1 archival copy of all pleadings, motion papers, transcripts, legal memoranda, correspondence or
2 attorney work product, even if such materials contain Protected Material. Any such archival copies
3 that contain or constitute Protected Material remain subject to this Protective Order as set forth in
4 Section 4 (DURATION), above.

5 12. MISCELLANEOUS

6 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
7 seek its modification by the Court in the future.

8 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
9 Order no Party waives any right it otherwise would have to object to disclosing or producing any
10 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
11 Party waives any right to object on any ground to use in evidence of any of the material covered by
12 this Protective Order.

13 12.3 No Duties Imposed on Court. Nothing in this Protective Order imposes any duties
14 or obligations on the Court or its staff.

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17 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.
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1 Dated: April 30, 2009

2
3 /S/Lindbergh Porter, Jr.
4 LINDBERGH PORTER, JR.
5 LITTLER MENDELSON
6 A Professional Corporation
7 Attorneys for Defendant
8 WELLS FARGO BANK, N.A.

9 Dated: April 30, 2009

10 /S/Charles Russell
11 CHARLES RUSSELL
12 CALLAHAN, MCCUNE & WILLIS, APLC
13 Attorneys for Nationwide Plaintiffs

14 Dated: April 30, 2009

15 /S/Kevin J. McInerney
16 KEVIN J. MCINERNEY
17 MCINERNEY & JONES
18 Attorneys for California Plaintiffs

19 PURSUANT TO STIPULATION, IT IS SO ORDERED., subject to attackhed supplemental order.

20 DATED: May 1, 2009

21
22 HONORABLE MADELINE HADAPATEL
23 JUDGE OF THE UNITED STATES
24 DISTRICT COURT

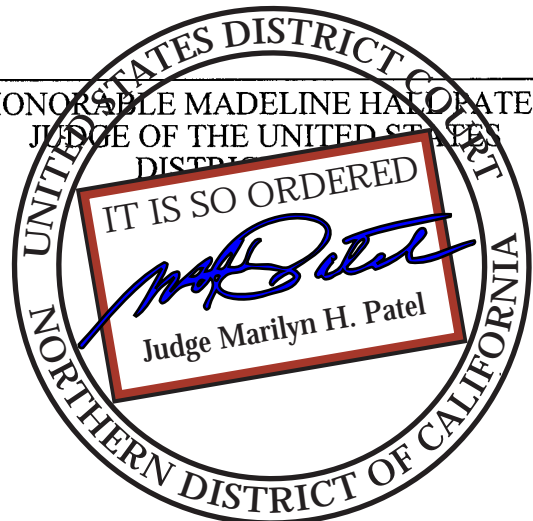


EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
 _____ [print or type full address], declare under penalty of perjury that I have read
 in its entirety and understand the Stipulated Protective Order that was issued by the United States
 District Court for the Northern District of California on _____ in the case of *In*
re Wells Fargo Home Mortgage Overtime Pay Litigation, Case No. MDL 06-1770. I agree to
 comply with and to be bound by all the terms of this Stipulated Protective Order and I understand
 and acknowledge that failure to so comply could expose me to sanctions and punishment in the
 nature of contempt. I solemnly promise that I will not disclose in any manner any information or
 item that is subject to this Stipulated Protective Order to any person or entity except in strict
 compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the
 Northern District of California for the purpose of enforcing the terms of this Stipulated Protective
 Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name]
 of _____ [print or type full address and
 telephone number] as my California agent for service of process in connection with this action or
 any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____
 [printed name]

Signature: _____
 [signature]

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